

December 22, 2021

DESMOND DESHAUN MORGAN
595 RIVERSIDE PKWY APT 508
AUSTELL, GA 30168

RE: RACHAEL ONYEWELIEHI LUCKY
I-130, Petition for Alien Relative

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
2150 Parklake Drive
Atlanta, GA 30345



U.S. Citizenship
and Immigration
Services



MSC2190191840



A219-638-139

NOTICE OF INTENT TO DENY

Dear DESMOND MORGAN:

On October 5, 2020, you filed a Form I-130, Petition for Alien Relative, with U.S. Citizenship and Immigration Services (USCIS) on behalf of RACHAEL LUCKY (the beneficiary). You sought to classify the beneficiary as the spouse of a U.S. citizen (USC) under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (INA).

After a thorough review of your petition, the testimony provided during your interview, and the record of evidence, we must inform you that we intend to deny your petition.

To demonstrate that an individual is eligible for approval as the beneficiary of a petition filed under INA 201(b)(2)(A)(i), a petitioner must:

- Establish a bona fide spousal relationship with the beneficiary; and
- Establish that he or she is a U.S. citizen (USC) or lawful permanent resident (LPR).

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the requested immigration benefit sought under the INA. See *Matter of Brantigan*, 11 I&N Dec. 493, 495 (BIA 1966); Title 8, Code of Federal Regulations (8 CFR), section 103.2(b). You must demonstrate that the beneficiary can be classified as your spouse. See 8 CFR 204.2(a).

Statement of Facts and Analysis, Including Ground(s) for Denial

On 12/21/2021, you appeared for an interview with an Immigration Services Officer in connection with the Form I-130 and the Form I-485, Application to Register Permanent Residence or Adjust Status. At the interview, the beneficiary provided testimony under oath.

USCIS received your I-130, Petition for Alien Relative, on 10/05/2020. The record shows you and your spouse married on 02/06/2020 in Marietta GA. The record shows on 04/03/2021 your spouse passed away. On 12/21/2021, your Attorney of Record, Ernest C. Egoh, P.A, requested a conversion of your I-130 petition to an I-360 (widower), based on the grounds of your husbands death.

The evidence in the record and testimony did not establish the claimed relationship.

The beneficiary must be eligible for the benefit sought at the time the petition was filed. See *Matter of Drigo*, 18 I&N Dec. 223 (BIA 1982). A petitioner must establish eligibility at the time of filing a petition; a petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. See *Matter of Katigbak*, 14 I&N Dec. 45 (Reg. Com. 1971). A petitioner may not make material changes to a petition that has already been filed in an effort to make an apparently deficient petition conform to USCIS requirements. See *Matter of Izumii*, 22 I&N Dec. 169 (BIA 1998).

After reviewing the evidence and the testimony provided at the interview, USCIS records indicate that the beneficiary is not eligible for the requested benefit sought for the following reason(s).

The petitioner must show, by a preponderance of the evidence, that the marriage was legally valid and bona fide at its inception, and "not entered into for the purpose of evading the immigration laws." *Matter of Laureano*, 19 I&N Dec. 1, 5 (BIA 1983). Although evidence to establish intent at the time of marriage can take many forms, some of those forms include: "proof that the beneficiary has been listed as the petitioner's spouse on insurance policies, property leases, income tax forms, or bank accounts; and testimony or other evidence regarding courtship, wedding ceremony, shared residence, and experiences." *Id.*

When there is reason to doubt the validity of a marital relationship, the petitioner must present evidence to show that the marriage was not entered into for the purpose of evading immigration law. See *Matter of Phillis*, 15 I&N Dec. 385, 386 (BIA 1975). To demonstrate that the purpose of the marriage was not to evade the immigration laws, a petitioner may submit documentation showing, for instance, joint ownership of property, joint tenancy of a common residence, commingling of financial resources, birth certificates of children born to the union, and sworn or affirmed affidavits from third parties with personal knowledge of the marital relationship. See 8 CFR 204.2(a)(1)(iii)(B).

You submitted the following evidence:

- Wells Fargo Application
- Georgia Power letter of Residency
- Renters Insurance Statement
- Lease 2020

However, on issues that go to the heart of your marriage, the sworn testimony and supporting documents was inconsistent on many material points. Specifically:

- You did not attend your spouse funeral
- You did not provide any information about the funeral (arrangements, obituary, photos, etc)
- The death certificate states "Never Married"
- The death certificate does not state a spouse name
- The birth certificate of the child born in 2020 was not provided
- No proof of payment for rent history provided
- No proof of payment for utilities/renters insurance noted in file or submitted
- A Wells Fargo "Application" was submitted oppose to a history of Wells Fargo bank statements with joint usage
- One photo of you and your spouse provided as opposed to a history of photos (especially the child born in 2020), cards, family photos/events shared together
- Limited joint accounts shared

- Short period of time of knowing one another prior to marriage, in addition to you being with child
- No school/day care records provided for children pickup

Please address the derogatory information/evidence provided above, and provide any additional evidence of a bona fide marriage.

You have thirty (30) days (33 days if this notice was received by mail) from the date of this notice to submit additional information, evidence or arguments to support the petition. Failure to respond to this request within the time allotted will result in the denial of the petition.

You must either mail the requested information to the address shown below or scan and upload your response using your USCIS online account (if applicable). Please note, if the request is for original documents, you must submit that information by mail.

Please include a copy of this letter with your response by mail to this address:

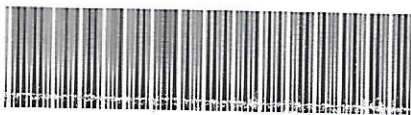
U.S. Citizenship and Immigration Services
Atlanta Field Office
2150 Parklake Drive
Atlanta, GA 30345

Sincerely,



Shineka C. Miller
Field Office Director

cc: S ENO



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